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APEX STORES, LLC; Apex LLC; Apex At Home, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

24 Hour Fitness USA, Inc.,

Plaintiff,

v.

Apex Stores, LLC; Apex, LLC; Apex At
Home, LLC

Defendants.

Case No. 4:08-cv-01681-SBA

**SUPPLEMENTAL DECLARATION OF
ANDREW A. GATES**

Honorable Sandra Brown Armstrong
United States District Judge

Hearing Date: September 9, 2008
Hearing Time: 1:00 p.m.
Courtroom: 3

I, Andrew A. Gates, hereby under oath depose and state as follows:

1. The matters set forth in this declaration are based upon my personal knowledge. I am a resident of the Commonwealth of Massachusetts. I make this declaration in support of the Defendants' Motion to Dismiss the above-captioned lawsuit.

2. Over the years, Apex Stores, LLC has registered approximately 1,500 domain names, including approximately 180 to 200 domain names that directly reference "Apex". Many of the domain names registered by Apex Stores, LLC are related to the operations and

1 retail services carried out by Apex Stores, LLC from 1999-2001, and subsequently by Apex
2 At Home, LLC.

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5 Signed and sworn to under the pains and penalties of perjury this 28th day of
6 August, 2008.

7
8 /s/ Andrew A. Gates
Andrew A. Gates

9
10 Attorney Attestation

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12 As the attorney e-filing this document, and pursuant to General Order No. 45, I hereby
13 attest that Andrew A. Gates has concurred in this filing.

14 Dated: August 28, 2008

15 /s/ Nathaniel Bruno
16 Nathaniel Bruno